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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,269	08/22/2003	William R. Walsh	D-3104	9461
33197	7590	11/04/2004	EXAMINER	
STOUT, UXA, BUYAN & MULLINS LLP 4 VENTURE, SUITE 300 IRVINE, CA 92618			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/646,269	WALSH, WILLIAM R.
	Examiner	Art Unit
	Tri M. Mai	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>08/25/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the score line on the cover forming the smaller box (cl. 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 20-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed

invention. The specification fails to teach the score line on the cover forming into a smaller box as set forth in claim 20, and multiple transverse score line in claim 13 forming into a box with tapering depth as set forth in claim 13.

3. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim recites a single transverse score line on the first portion. However, it is noted that there are a plurality of transverse score lines 26f and 26b.

Regarding claim 13, the term “at least one transverse score line” indicate that there can be more than two transverse score lines. The disclosure only show one transverse score line.

Regarding claim 15, “the first portion” has no antecedent basis. It is unclear how the score line on the cover forming into a smaller box as set forth in claim 20.

Claim Rejections - 35 USC § 102

4. Claims 1-5, 8, 13-16, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ritter (6375066). Ritter teaches a box with first and second portion, and portion 46 or 42 can either be the single transverse score line as claimed.

Regarding claim 3, note the removable portions including segments that are attached on the sidewalls of the first portion.

Regarding claim 13, Ritter teaches a flat portion with longitudinal side edges, a front edge and a back edge, a pair of sidewall, 24', 24", a front end wall 44', 44", back end walls, at least one transverse score line 42', 42" extending between the opposing longitudinal side edges,

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the container is folded along the one transverse score lines defines a box having a tapering depth along portions 44', 44".

Regarding claim 19, a portion of the cover adjacent 46', and 46" is removed prior to the portion being folded as claimed. The claim does not require the entire cover be removed.

5. Claims 1, 2, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tulkoff (6386440). Tulkoff teaches a box having a first second portion and a transverse score line between the side edges.

Regarding claim 2, note the offset score line on portion 21 in Fig. 9.

Regarding claims 10-12, note the perforation lines 203 in Fig. 9 on the cover 27.

6. Claims 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Vuillemenot (2894673) or Arneson (2361923). Vuillemenot teaches a flat portion having a pair of sidewalls 10, a front end wall 3, a back end wall 6, and score lines 7x forming into a container as claimed. Arneson teaches a flat portion having a pair of sidewalls 19, a front end wall 17, a back end wall 12, and score lines b, b' forming into a container as claimed.

7. Claims 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Capo (4535928). Capo teaches base portion, a cover portion (26, 36, 72, 98), and score lines 226, 228 foldable into a smaller box with a varying depth about portion 230, 234.

8. Claims 9, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Ritter or Tulkoff in view of Anatro (5209392). It would have been obvious to one of ordinary skill in the art to make the container from recycled materials in either Ritter or Tulkoff as taught by Anatro to protect the environment.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

